



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants: LORI AMITHOR FULKS

Examiner: Collado, C. Francisca

Serial No.: 10/710,349

Group Art Unit: 3618

Filed: July 2, 2004

For: COLLAPSIBLE CHAIR

Commissioner for Patents
Alexandria, VA 22313-1450

BRIEF OF APPELLANT

Sir:

This is an appeal from the Final Rejection of the Examiner dated May 3, 2006, rejecting Claims 1 to 6. 8. 9. 10. and 14 to 18.

(i) Real Party In Interest

The real party in interest is the inventor, Lori Amithor Fulks.

(ii) Related Appeals and Interference

There are no related appeals or interferences.

(iii) Status of Claims

Claims 1 to 20 were filed with the application.

Claims 19 and 20 were allowed.

Claims 7 and 11 to 13 were objected to as depending on rejected

Claim 1, but would be allowed if rewritten in independent form.

Claims 1 to 6, 8, 9, 10, and 14 to 18 were rejected and are appealed.

(iv) Status of Amendments

No amendment was submitted after the Final Rejection.

(v) Summary of claimed subject matter

Claims 1 and 17 are independent claims and Claim 5 is separately argued.

Claim 1

Claim 1 is for a collapsible chair (Figure 1). The chair has eight required elements:

- (1) two front legs without wheels attached (Figures 1 and 2, number 2, paragraph [0012], lines 1 and 2);
- (2) two back legs (Figure 2, number 16, paragraph [0012], lines 1 and 2);
- (3) a flexible seat (Figure 1, number 3, paragraph [0010], line 2);
- (4) a flexible back (Figure 1, number 5, paragraph [0013], lines 1 and 2);
- (5) an arm rest on each side of the seat (Figure 1, number 4, paragraph [0010], line 2);
- (6) at least one wheel attached behind the bottom of each back leg so that the wheels do not bear the weight of the chair except when the chair is tipped (Figures 1 and 2, number 6, paragraph [0014], lines 1 to 3);

(7) flexible material between the seat and each arm rest and between the seat and the back, that prevents items placed on the seat from falling off the seat when the chair is tipped and pulled (Figure 1, number 8, paragraph [0017], lines 1 to 3); and

(8) a handle attached to the top of the chair, whereby the chair can be tipped and pulled by the handle with the weight of the chair borne by the wheels when the chair is in an open or collapsed position (Figures 1 and 2, number 7, paragraph [0015], lines 1 to 3).

Claim 5

Claim 5 is dependant upon Claim 1 and is also for a collapsible chair (Figure 1). Claim 5 additionally requires a lock for releasably holding the chair in a collapsed or open position (Figures 3 and 4, number 20, paragraph [0018], lines 1 to 9).

Claim 17

Claim 17 is for a collapsible chair (Figure 1). The chair has nine required elements:

- (1) two front legs without wheels attached (Figures 1 and 2, number 2, paragraph [0012], lines 1 and 2);
- (2) two back legs (Figure 2, number 16, paragraph [0012], lines 1 and 2);
- (3) a flexible seat (Figure 1, number 3, paragraph [0010], line 2);
- (4) a flexible back (Figure 1, number 5, paragraph [0013], lines 1 and 2);
- (5) an arm rest on each side of the seat (Figure 1, number 4, paragraph [0010], line 2);

- (6) at least one wheel attached behind the bottom of each back leg so that the wheels do not bear the weight of the chair except when the chair is tipped (Figures 1 and 2, number 6, paragraph [0014], lines 1 to 3);
- (7) a lock for securing the chair in an open position or in a collapsed position (Figures 3 and 4, number 20, paragraph [0018], lines 1 to 9);
- (8) flexible material between the seat and each arm rest and between the seat and the back, that prevents items placed on the seat from falling off the seat when the chair is tipped and pulled (Figure 1, number 8, paragraph [0017], lines 1 to 3); and
- (9) a collapsible handle attached to the top of each side of the chair, whereby the chair can be tipped and pulled by the handle with the weight of the chair borne by the wheels when the chair is in an open position or in a collapsed position (Figures 1 and 2, number 7, paragraph [0015], lines 1 to 10)

(vi) Grounds of rejection to be reviewed on appeal

- I. Claims 1 to 6, 9 to 10, and 14 to 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Logan ('643) in view of Kilmer ('048).
- II. Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Logan ('643) in view of Kilmer ('048) further in view of Examiner's Official Notice. It is believed that the Examiner means "Claim 18," not Claim 8, and this rejection will therefore be taken as applied to Claim 18.

(vii) Argument

I. Rejection under 35 U.S.C. 103(a) over Logan in view of Kilmer

Claims 1 to 6, 9 to 10, and 14 to 18

Appellant's collapsible chair enables a person to place various articles on the seat of the chair both when the chair is an open and in a closed position. The chair can then be tipped backwards and pulled on two wheels attached to the back legs. Articles placed on the seat do not fall off the seat when the chair is being pulled because Appellant's chair has flexible material between the arms of the chair and the seat and also between the back of the chair and the seat to prevent that from happening. There are no wheels on the front legs of the chair and the wheels on the back legs do not touch the ground except when the chair is tipped, so that the chair will not move when someone is sitting in it.

The Examiner argues that Logan's chair has "an armrest on each side of the seat (see figure 1, element 23)." Element 23 is identified by Logan as being "seat material," not an arm rest. The purpose of compression member 4 in Logan is not to provide a rest for the arms, but to hold seat material 23 up to support the weight of someone sitting in the chair. One can hardly rest one's arms on the thin top edge of seat material 23.

The Examiner further argues that Logan has flexible material between the seat and each "arm rest" and between the seat and the back. While Logan does extend a single piece of flexible material around his chair, he does so in order to put it under enough tension to support a person sitting on the chair (column 2, lines 23 to 25). Appellant's flexible material is not for the purpose of supporting a person's weight, but is to prevent objects placed on the seat from falling off when

the chair is pulled. Appellant's claims specifically require the flexible material to perform that function. Logan's flexible material cannot perform that function because there is a large gap on each side in the flexible material between the seat and the back. That gap is required by Logan in order pull "the rear lowermost part of the seat **25** downwardly so that it can be attached to the bottom of compression members **8** and **9**," (column 2, lines 20 to 23) thereby "pulling the seat material into an antielastically curved surface capable of providing firm support for the occupant." (Column 2, lines 23 to 25.) However, as explained hereinabove, constructing the seat in that manner means that the seat must have two open gaps and curve downward at its two back corners. Thus, objects placed on the seat, such as sunglasses, cans, and toys, will simply roll or slide on the seat towards the gaps at the back of the seat and then fall off the seat. This is likely to happen even when the chair is not tipped, but will happen with even greater certainty when the chair is tipped and is pulled over grass or ground. That is exactly the problem that Appellant's chair overcomes.

Appellant's claims also require a seat, a back, and arm rests as separate elements in addition to the flexible material that is in between the seat and the back and the seat and the arm rests. In Appellant's claims, the seat, the back, and the arm rests are three separate components of the chair and the flexible material is an additional fourth component. These four components perform three separate functions – the seat supports the sitter's weight, the back supports his back, the arm rests support his arms, and the flexible material in between those three separate elements prevents objects placed on the seat from falling

off the seat. Logan's chair does not disclose a separate seat, back, arm rests, and flexible material in between.

As the Examiner notes, Logan "lacks the teaching of wheels and a handle" so the Examiner argues that it would be obvious to modify Logan's chair "to include a handle and wheels behind the rear legs as in Kilmer." Appellant, however, does not agree. It would be very difficult to add the wheels of Kilmer to the rear legs of Logan. The rear "legs" of Logan are "flexible tension members" 11 and 12, which are just cords, to which it would be impossible to attach wheels. Compression members 8 and 9 are rigid, but at such odd angles that it would not be easy to attach Kilmer's wheels to them at the appropriate position and orientation. Moreover, Logan wants his chair to be light-weight (column 1, line 24 and elsewhere). But since Logan's chair is light-weight there is no need to add wheels to it as it can be easily carried. It is only for a heavy chair or a chair that is suitable for carrying objects on the seat (such as Appellant's chair), where wheels are needed. Thus, it would not be obvious to add Kilmer's wheels to Logan's chair.

Similarly, there is no need for a handle on Logan's chair as a handle, like wheels, will just make the chair heavier and Logan wants his chair to be light-weight. A handle is needed only if the chair is to be pulled on wheels, but having a handle and wheels would conflict with a major object of Logan's invention – to provide a light-weight chair that can be easily carried.

Claim 5

The Examiner further argues that Logan has “a lock for securing the chair in an open position or in a collapsed position (see figure 2, element 13).” Logan describes element 13 as a “flexible tension member.” (Column 2, lines 36 and 37), not as a lock. In Figure 1 of Logan element 13 is shown as a cord between two of the legs. It will prevent the legs from spreading farther apart, but it will not prevent the chair from collapsing if the legs are moved together. Thus, element 13 does not and cannot hold the chair in an open position, as required by the lock of Appellant’s Claim 5. Moreover, Appellant fails to see how element 13 holds the chair in a collapsed position in Figure 2. Therefore, element 13 is not a lock as defined in Appellant’s Claim 5.

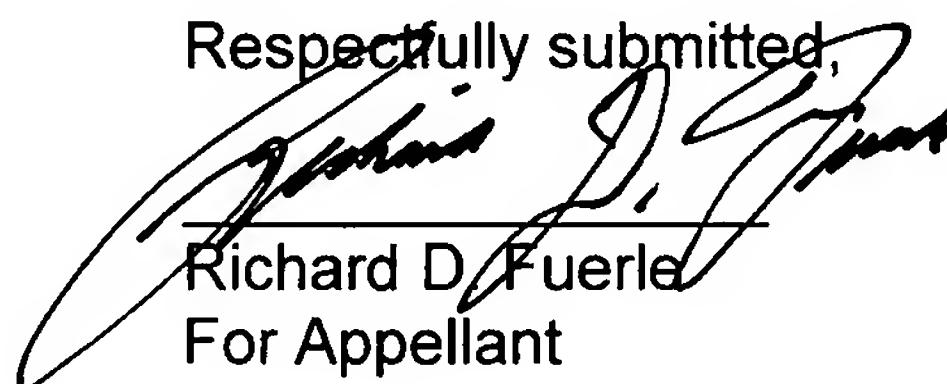
Further as to Appellant’s Claim 5, the Examiner argues that Kilmer discloses locks in Figure 1b, elements 40 and 41. Kilmer identifies elements 40 and 41 as “bungee cords” (column 4, line 26), not locks. Their purpose is not to hold the chair in a collapsed or open position but, after the chair is collapsed, “to hold down items such as a cooler, picnic basket, beach balls, sand pails, and another, preferably smaller beach chair, and so forth.” (Column 4, lines 29 to 32.) There is no disclosure in Kilmer that these bungee chords hold the chair in a collapsed or open position. For these reasons, Claim 5 does not stand or fall with the remaining claims in this rejection.

II. Rejection under 35 U.S.C. 103(a) over Logan in view of Kilmer further in view of Examiner’s Official Notice

Claim 8 [18]

The Examiner states that both "Logan and Kilmer lack the teaching of [placing] item[s] on the seat of a collapsible chair and pulling the chair by the handle, " but that doing that is "common knowledge." Appellant does not know how common that practice is, but Claim 18 is limited to the doing this with the chair of Claim 17 and, to the best of Appellant's knowledge, no one has ever done that with the chair of Claim 17. Furthermore, Claim 16 is similar to Claim 18, but was not rejected on these grounds and Claim 20, which is also similar, was allowed.

For these reasons, it is submitted that Appellants' invention is not obvious over the references cited. The Board is therefore requested to reverse the Examiner and allow Claims 1 to 6, 8 to 10, and 14 to 18.

Respectfully submitted,

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(vii) Claims Appendix

1. A collapsible chair having
 - (A) two front legs without wheels attached;
 - (B) two back legs;
 - (C) a flexible seat;
 - (D) a flexible back;
 - (E) an arm rest on each side of said seat;
 - (F) at least one wheel attached behind the bottom of each back leg so that said wheels do not bear the weight of said chair except when said chair is tipped;
 - (H) flexible material between said seat and each arm rest and between said seat and said back, that prevents items placed on said seat from falling off said seat when said chair is tipped and pulled; and
 - (G) a handle attached to the top of said chair, whereby said chair can be tipped and pulled by said handle with the weight of said chair borne by said wheels when said chair is in an open or collapsed position.
2. A collapsible chair according to Claim 1 wherein a single wheel is attached to the bottom of each back leg.
3. A collapsible chair according to Claim 1 wherein dual wheels are attached to the bottom of each back leg.
4. A collapsible chair according to Claim 1 wherein said flexible material is netting.

5. A collapsible chair according to Claim 1 including a lock for releasably holding said chair in a collapsed or open position.
6. A collapsible chair according to Claim 1 wherein said handle is attached to both sides of said chair.
8. A collapsible chair according to Claim 1 wherein said handle is extendable towards and away from said seat.
9. A collapsible chair according to Claim 1 wherein said flexible seat and flexible back are made of fabric.
10. A collapsible chair according to Claim 1 wherein said legs are tubular and are made of steel or aluminum.
13. A collapsible chair according to Claim 11 where said members that are attached to said front foot connectors and to said front seat connectors extend beyond said front seat connectors and support said arm rests.
14. A collapsible chair according to Claim 4 4 wherein the openings in said netting are about 1/4 to about 3/4 inches.
15. A collapsible chair according to Claim 4 4 wherein said netting is also attached to said back.
16. A method of transporting items comprising placing said items on the seat of a collapsible chair according to Claim 1 and pulling said chair by said handle.
17. A collapsible chair having
 - (A) two front legs without wheels attached;
 - (B) two back legs;
 - (C) a flexible seat;

- (D) a flexible back;
- (E) an arm rest on each side of said seat;
- (F) at least one wheel attached behind the bottom of each back leg so that said wheels do not bear the weight of said chair except when said chair is tipped;
- (G) a lock for securing said chair in an open position or in a collapsed position;
- (H) flexible material between said seat and each arm rest and between said seat and said back, that prevents items placed on said seat from falling off said seat when said chair is tipped and pulled; and
- (I) a collapsible handle attached to the top of each side of said chair, whereby said chair can be tipped and pulled by said handle with the weight of said chair borne by said wheels when said chair is in an open position or in a collapsed position.

18. A method of transporting items comprising placing said items on the seat of a collapsible chair according to Claim 17 and pulling said chair by said handle.

(ix) Evidence appendix

None

(x) Related proceedings appendix

None